

# **EPNG Line No. 1903 Project**

*Protection Measures for Special  
Status Wildlife and Plants During  
Construction*

## **Protection Measures for Special Status Wildlife and Plants During Construction**

El Paso Natural Gas Company (EPNG) has committed to implementing measures to minimize possible adverse effects to federal and state listed wildlife and plants that inhabit areas traversed by the Line No. 1903 ROW. The implementation of these measures will benefit the species identified as being of concern as well as all wildlife and plants in the work areas. ***These measures will be implemented by EPNG unless superceded by specific written requirements or recommendations from the U.S. Fish and Wildlife Service as a result of Section 7 formal consultation under the Endangered Species Act.***

Federally listed and proposed species or their habitats known to occur along the Line No. 1903 ROW are:

- Mountain plover
- Desert tortoise
- San Joaquin kit fox
- Blunt-nosed leopard lizard
- Tipton's kangaroo rat
- California condor
- Yuma clapper rail
- Southwestern willow flycatcher
- Bonytail chub
- Razorback sucker
- Bald eagle
- Bakersfield cactus
- Brown pelican

State listed species of concern or their habitats known to occur along the Line No. 1903 ROW are:

- Mojave ground squirrel
- Swainson's hawk
- Yellow-billed cuckoo
- Gila woodpecker
- Elf owl
- Bakersfield smallscale
- Striped adobe lily

EPNG has proposed to undertake the following measures to mitigate project effects upon wildlife and plants during construction activities.

1. All EPNG employees and its contractors involved with pipeline inspections and construction activities will be required to attend a threatened and endangered species education program. The program will be approved by the USFWS and CDFG. All construction and monitoring employees shall participate in the education program prior to initiation of activities. New employees shall receive formal, approved training prior to working on-site. At a minimum, the program shall cover the distribution of listed species, general behavior

and ecology of these species, sensitivity to human activities, legal protection, penalties for violation of state and federal laws, reporting requirements, and project mitigation measures. In addition, the program shall include fire prevention measures to be implemented by employees during project activities.

2. Encounters with a listed species shall be reported to an authorized or qualified biologist. These biologists shall maintain records of all listed species encountered during project activities. This information shall include for each individual: the locations (narrative, vegetation type, and maps) and dates of observations; general conditions and health; any apparent injuries and state of healing; if moved, the location from which it was captured and the location in which it was released (for desert tortoises, whether animals voided their bladders); and diagnostic markings (i.e., identification numbers or, on desert tortoises, marked lateral scutes).
3. Existing routes of travel to and from the construction and inspection sites shall be used. Cross-country use of vehicles and equipment shall be strictly prohibited.
4. Trash and food items will be contained in closed containers and removed daily to reduce attractiveness to opportunistic predators such as common ravens (*Corvus corax*), coyotes (*Canis latrans*), and feral dogs.
5. Employees will not bring pets to the project site.
6. Firearms shall be prohibited from the activity sites.
7. Desert tortoises commonly seek shade during the hot portions of the day. Employees working within the geographic range of this species (approximate MP 40.0-303.5) shall be required to check under their equipment or vehicle before it is moved. If desert tortoises are encountered, the vehicle is not to be moved until such animals have voluntarily moved to a safe distance away from the parked vehicle. A person authorized by the USFWS for this task may move desert tortoises.
8. Upon completion of each activity on the ROW, all unused material and equipment shall be removed from the site. This condition does not apply to fenced compressor station sites.
9. Only personnel authorized by the Service may handle federally listed species. When a desert tortoise is moved, the qualified biologist shall be responsible for taking appropriate measures to ensure that the animal is not exposed to temperature extremes that could be harmful. The authorized personnel shall follow the appropriate protocols outlined in *Guidelines for Handling Desert Tortoises During Construction Projects* when handling desert tortoises or excavating their burrows.
10. Upon locating an individual of a dead or injured listed species, EPNG shall make initial notification to CDFG and Service within 3 working days of its finding. The notification must be made in writing to the Service's Division of Law Enforcement in Torrance (370 Amapola Avenue, Suite 114, Torrance, California 90501, (310) 328-1516); and by telephone and writing to the Ventura Fish and Wildlife Office (2493 Portola Road, Suite B, Ventura, California 93003, (805) 644-1766). The report shall include the date and time of the finding or incident (if known), location of the carcass, a photograph, cause of death (if known), and other pertinent information. Animals injured through EPNG activities shall be transported to

a qualified veterinarian for treatment at the expense of EPNG. If an injured animal recovers, the CDFG shall be contacted for final disposition of the animal.

11. In January of each year beginning in 2004, EPNG shall submit a list of proposed activities by name, category, location, and approximate start date to the Bureau, California Desert District Office, 6221 Box Springs Boulevard, Riverside, California 92507, Attention: Pipeline Projects. EPNG shall also forward the list of activities to the Service and CDFG. The agencies shall have 30 days following receipt of the report to reject the proposed action. In the event of a rejection, EPNG will work with the agencies to resolve issues. Agency approval of the proposed list of projects is valid for one year after agency acceptance.
12. Routine road surface management activities shall be conducted during the inactive season of the desert tortoise (October 16 through March 1 and June 16 through August 1). Localized repair of major damage may take place throughout the year.
13. Within the San Joaquin Valley, construction activities during evening hours will be minimized and work will not occur at night unless it is an emergency.
14. Any planned activity that involves noise disturbance greater than 60 dBA within MP 301.5 and 303.25 would be scheduled to occur between September 16 through April 14 each year. Alternatively, EPNG could conduct species-specific surveys for the southwestern willow flycatcher and the Yuma clapper rail and work with USFWS to eliminate this constraint if surveys following accepted protocols were negative.
15. Within undisturbed habitat for the Bakersfield cactus (MP 0 to MP 22.5) outside the ROW, surveys will be performed before unplanned construction or maintenance activities are conducted to determine species presence. If plants are present, impacts will be avoided. If impacts can not be avoided, USFWS will be contacted.
16. Pre-construction surveys for listed species will be conducted according to CDFG protocols. Alternatively, surveys for San Joaquin kit fox dens would be conducted in the area of each construction location. If surveys were not conducted, species occupancy would be assumed. If blunt-nosed leopard lizards were observed incidental to other surveys, species-specific surveys would not be required.
17. All listed species surveys and monitoring work within areas where pre-activity surveys have demonstrated the potential to affect one or more listed species shall be accomplished by a qualified biologist. The biologist shall be responsible for assisting crews in compliance with protection measures, performing surveys in front of the crew as needed to locate and avoid sensitive species, and monitoring compliance.
18. A pre-activity survey of the project area shall be conducted by a qualified biologist no more than 14 days prior to the onset of activities. Burrows of listed species (including desert tortoise pallets) outside of, but near, the pipeline ROW shall be prominently flagged at that time so that they may be avoided during work activities. Proposed actions shall avoid disturbing such sites to the extent possible. In the event an occupied burrow is found within the proposed construction site, a qualified biologist will be on-site during construction.

19. Disturbances in San Joaquin kit fox habitat would be avoided between January 1 and April 30. Activities in San Joaquin kit fox habitat will be consistent with the *USFWS Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance*.
20. Burrows of listed species (including e.g., San Joaquin fox dens, desert tortoise pallets) outside of, but near, the pipeline ROW will be prominently flagged at that time so that they may be avoided during work activities. Disturbance of such sites will be avoided to the extent possible. In the event an occupied burrow is found within the work area, a qualified biologist will be on-site during work activities.
21. If sensitive sites might be disturbed, the following actions will be taken:

- a. Confirmed San Joaquin fox dens will be protected. Buffer distances around such denning sites would be established as follows:

Occupied den: 100 feet  
Known den: 50 feet  
Natal den: 140 feet  
Potential den: 50 feet

Activities within these buffer zones would be limited to vehicle operation and equipment operation on existing roads only. If destruction of a San Joaquin kit fox den cannot be avoided, CDFG and USFWS will be contacted for guidance prior to ground disturbance. With concurrence from these agencies, the subject den may be carefully excavated either by an authorized biologist or under the direct supervision of an authorized biologist to ensure no animals are trapped or injured. Any San Joaquin kit foxes in residence will be allowed to escape unimpeded. The unoccupied den would then be completely destroyed to discourage animals from returning to the site.

Potential dens will be excavated using the same procedures. If a natal den can not be avoided, it will be hand excavated by a biologist between August 1 and December 14.

- b. Buffer distances will be established around the following sensitive sites during work activities:

Tipton kangaroo rat burrow: 30 feet  
Blunt-nosed leopard lizard burrow: 30 feet

If buffer zones for the above sites cannot be adhered to, a qualified biologist will be on site when disturbance activities are scheduled to occur.

- c. In the San Joaquin Valley and within habitat for the blunt-nosed leopard lizard, surface-disturbing activities may occur at any time. Burrows of appropriate size that may be used by blunt-nosed leopard lizards would be avoided to the greatest extent possible. For projects greater than 10 acres, surface disturbing activities would be scheduled between April 15 and October 31. If leopard lizards are observed at the work site, measures to capture, hold, and release them after completion of project activities may be authorized by USFWS and CDFG.

- d. Within the San Joaquin Valley and within habitat for Tipton's kangaroo rat, pre-construction surveys will be conducted according to CDFG protocol or presence will be assumed and all likely burrows protected.

Surface-disturbing activities less than 10 acres in area may occur at any time. Tipton kangaroo rat burrows would be avoided to the greatest extent possible. If a burrow cannot be avoided, it will be excavated and any animals moved out of harm's way by an authorized biologist. If greater than 10 acres, EPNG would relocate Tipton kangaroo rats pursuant to a plan approved by USFWS and CDFG.

22. Should it prove necessary to excavate a desert tortoise from its burrow to move it from harm's way, excavation shall be done using hand tools, either by or under the direct supervision of an authorized biologist. Excavation of desert tortoise burrows shall occur no more than 7 days before the onset of maintenance or construction activities. All desert tortoises removed from burrows shall be placed in an unoccupied burrow of approximately the same size as the one from which it was removed. If an existing burrow is unavailable, the authorized biologist shall construct or direct the construction of a burrow of similar shape, size, depth, and orientation as the original burrow. To ensure their safety, desert tortoises moved during inactive periods shall be monitored for at least 2 days after placement in the new burrows or until the end of the job. The authorized biologists shall be allowed some judgment and discretion to ensure that survival of the desert tortoise is likely.

If desert tortoises need to be moved at a time of day when ambient temperatures could harm them (less than 40 degrees Fahrenheit or greater than 90 degree Fahrenheit), they shall be held overnight in a clean cardboard box. These desert tortoises shall be kept in the care of the authorized biologist under appropriate controlled temperatures and released the following day when temperatures are favorable. All cardboard boxes shall be appropriately discarded after one use.

23. EPNG shall designate a field contact representative (FCR) who will be responsible for overseeing compliance with protective stipulations for listed species. The FCR must be on site during all project activities. The FCR shall have authority to halt all activities that are in violation of the stipulations. The FCR shall have a copy of all stipulations when work is being conducted on the site. The FCR may be a project manager, EPNG representative, or a contract biologist.
24. The FCR shall have the authority to halt all non-emergency project activity should danger to a listed species arise. Work shall proceed only after hazards to the listed species are removed, the species is no longer at risk, or the individual has been moved from harm's way by the authorized biologist.
25. During project activities, vehicle parking and material stockpiles shall be located in existing disturbed areas along the pipeline ROW. Pipe segments shall be inspected for the presence of listed species. Should a pipe segment become occupied by a listed species, a qualified biologist shall remove it from the pipe segment and release it out of harm's way.
26. All surface-disturbing activities within the range of any listed species shall be conducted in a manner that reduces, as much as possible, the potential for take of individuals of a listed species. Impacts to habitat shall also be minimized to the maximum possible extent.

27. The area of disturbance shall be confined to the smallest practical area, considering topography, placement of facilities, location of burrows, nesting sites or dens, public health and safety, and other limiting factors. As needed, work area boundaries shall be delineated with flagging or other marking to minimize surface disturbance associated with vehicle straying. Special habitat features, such as burrows identified by the qualified biologist, shall be avoided to the extent possible. To the extent possible, previously disturbed areas within the project sites shall be used for the stockpiling of excavated materials, storage of equipment, digging of slurry and burrow pits, locations of trailers, parking of vehicles, and any other surface-disturbing activity. The qualified biologist, in consultation with the EPNG, shall ensure compliance with these measures.
28. All activities shall be restricted to a pre-determined corridor. If unforeseen circumstances require expansion of this width, the potential expanded work areas shall be surveyed for listed species prior to use of the area. All appropriate mitigation measures shall be implemented within the expanded work areas based on the judgment of the agencies and EPNG's biological consultant. Work outside of the original ROW shall proceed only after receiving written approval from the BLM, USFWS, and CDFG describing the exact location of the expansion.
29. All construction pipes, culverts, or similar structures that are stored at a construction site for one or more nights will be inspected throughout the construction day and before the pipe is used or moved. If wildlife species are present, they will be allowed to exit on their own or an authorized biologist will move them out of harm's way.
30. EPNG has the option of erecting desert tortoise fencing in lieu of inspection of open trenches. If the trench is short, EPNG construction or maintenance personnel may monitor the trench. During excavation of trenches or holes, earthen ramps will be provided to facilitate the escape of any wildlife species that may inadvertently become entrapped. The length of pipeline trench left open at any given time shall not exceed the length of pipeline segment that would be worked on in 1 week. A final inspection of the open trench segment shall also be made immediately before backfilling. All open pipe segments shall be covered when work activity is not occurring at a site. Trenches must meet the safety requirements of the Occupational Safety and Health Administration before personnel enter open trenches to remove wildlife.
31. Employees shall exercise caution when commuting to the project area and while traveling the ROW during construction activities. To minimize the likelihood for vehicle strikes of listed species, speed limits when commuting to project areas on ROW roads shall not exceed 20 miles per hour.
32. EPNG shall ensure that activities are confined to the authorized work areas by means of project assessments. The assessments may be conducted by the authorized biologist. Should the assessment find that maintenance activities extended beyond the approved work areas, the BLM, USWS, and CDFG shall ensure that EPNG uses appropriate measures to restore the disturbed areas.
33. Where necessary, EPNG shall be required to restore disturbed areas in a manner that will assist in the re-establishment of biological values within the disturbed ROWs. Methods of such restoration shall include the reduction of erosion, re-spreading of the top two inches of

soil, planting with appropriate native shrubs, and scattering of bladed vegetation and rocks across the ROW, depending upon the appropriateness or effectiveness in a given area.

34. Within 60 days of completion of construction activities, the FCR and authorized biologist shall prepare a report for the BLM, USFWS, and CDFG documenting the effectiveness and practicality of the mitigation measures, the number of desert tortoises excavated from their burrows, the number of desert tortoises removed from the site, the number of desert tortoises killed or injured, and the specific information for each species required under mitigation measure 2. The report shall also make recommendations for modifying the stipulations to enhance species protection or improve the utility of the programmatic permit. The report shall provide information on the actual acreage disturbed by various aspects of the operation.
35. EPNG shall endeavor to place the remains of intact listed species with educational or research institutions holding the appropriate state and federal permits per their instructions. If such institutions are not available or the animal's remains are in poor condition, the information noted above shall be obtained and the carcass left in place. If the animal is a desert tortoise, the BLM, USFWS, and CDFG should consider marking the carcass in a manner that would not be toxic to other wildlife to ensure that it would not be re-recorded in the future. Arrangements regarding proper disposition of potential museum specimens shall be made with the institution by the BLM, USFWS, and CDFG through a biologist prior to implementation of the action. Animals injured by project activities should be transported to a qualified veterinarian. Should any treated animals survive, the appropriate Service field office should be contacted regarding the final disposition of the animals.
36. The width of any activity corridor for any pipeline excavation project or construction of any aboveground facility shall be determined prior to the onset of ground-disturbing activities. Consistent with worker safety, work areas shall be restricted to the narrowest possible corridors.
37. Authorized biologists shall be present during construction to assist in the implementation of on-site mitigation measures for the desert tortoise and to monitor compliance. The appropriate number of authorized biologists shall be dependent upon the nature and extent of the work being conducted and shall be stated in the BLM's ROW grant for each particular action, after discussion with the BLM, USFWS, CDFG, and EPNG's biological consultant.
38. Desert tortoises removed from work areas shall be released as described previously. To facilitate clearing of the area of desert tortoises, excavation of burrows shall begin no more than 14 days prior to the onset of surface disturbing activities, as long as a final survey is conducted within 24 hours of the onset of activities to ensure that desert tortoises have not returned to the work area.
39. For regular activities that may extend outside of any pipeline ROW all or in part, a separate permit may be required.
40. For emergency situations involving a pipeline leak or spill or any other immediate safety hazard, EPNG shall notify the appropriate BLM field office within 48 hours. As a part of this emergency response, the BLM, USFWS, and CDFG may require specific measures to protect listed species. During cleanup and repair, the agencies also may require measures to recover damaged habitats.



41. Compensation for loss of habitat shall be provided according to BLM, USFWS, and CDFG requirements. Current requirements for loss of desert tortoise habitat are based on a formula presented in the California Statewide Desert Tortoise Management Policy. For the purposes of this consultation, changes to the compensation formula must be reviewed and approved by the Service and CDFG. At EPNG's discretion, for all listed species affected by this project, EPNG shall either 1) acquire the compensation lands and deliver the deed to the BLM or CDFG; 2) provide adequate funds, to be determined by the BLM, to the BLM or CDFG for the acquisition of compensation lands or for other activities approved by the Service; or 3) make permanent improvements to listed species habitat upon agreement of CDFG, the Service and the BLM. Lands to be acquired must be within Category I or II of the same desert tortoise management unit. If acquiring lands (option 1 above), the project proponent must work closely with the BLM in selecting the lands benefiting conservation and recovery efforts. Compensation requirements may be paid subsequent to the year-end report.